IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2006

CORAM:

THE HON'BLE MR. JUSTICE M.E.N.PATRUDU

W.P.No.6078 of 1999

R.Prabakaran ... Petitioner

Vs

1. Tamil Nadu Civil Supplies Corporation
   Rep. By its Senior Regional Manager
   Nagapattinam.

2. Tamil Nadu Civil Supplies Corporation
   Rep. By its Managing Director
   42, Thambusamy Road
   Chennai - 10. ... Respondents

Petition filed under article 226 of the Constitution of India for issuance of a writ of Certiorari calling for the records relating to the proceedings of the first respondent made in RC M3/4287/94 dated 11.9.1995 as confirmed by the second respondent in his proceedings No.G-1/129441/95 dated 7.1.1999 and quash the same.

For Petitioners : Shri.Venkataraman
For Respondent : Shri.M.Devadoss

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ORDER

The petitioner was working as Superintendent in the Head Office of the respondent Corporation and also during that period he was working as Double Lock Officer at Mannargudi sub Region. On 11.3.1994, he was suspended on a charge that there are certain violations while discharging his duties ad Double Lock Officer.

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2. Charge memo was served on the petitioner levelling as many as six charges. On receipt of the same, the petitioner gave an explanation denying all the allegations and disclosing that he himself voluntarily submitted report to the superior officer on suspecting tampering of lock by hulling agents . On his report, physical verification was ordered. However, physical verification was not conducted.

3. The content of the explanation of the petitioner discloses that when he is the complainant, the department is making allegation against him as if he indulged in misconduct. Having received the explanation report, the respondents have appointed Deputy Manger Tiruthuraipoondi as an Enquiry Officer without fixing any date for enquiry and without examining any witness and relying on the explanation given by the delinquent the said officer gave a findings on his own and conclusion of the finding is that the petitioner is guilty for all the charges levelled against him.

4. When an enquiry report has been served on the petitioner, he gave a detailed explanation.

5. However, the respondent rejected the explanation of the petitioner and imposed stoppage of two increment without cumulative effect.

6. Aggrieved by the same, the petitioner approached this Court.

7. Heard learned counsel for the petitioner and the learned counsel appearing for the respondents.

8. Perused the material documents.

9. Without going to the merits and demerits of the case as it is clear that the Enquiry Officer has committed gross violation of service law and without examining any witness or without perusing any documents gave his findings basing on the explanation of the petitioner and it is illegal but the petitioner is seeking immediate relief. When the explanation of the petitioner is disclosing that he is not admitting any charges, it is absurd that the petitioner is guilty. But, in view of the nature of allegations and the punishment imposed, the Court is of the opinion that stoppage of two increments without cumulative effect will meet the ends of justice.

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11. Learned counsel for the petitioner has very fairly submitted that the same may be awarded provided there shall be no recovery from him and on the basis of this enquiry the above punishment should not affect his promotion.

12. The procedure adopted by the Enquiry Officer and the disciplinary authority is totally against the violation of principles of natural justice, but in view of the submission of the petitioner, the writ petition is disposed of with a direction to the respondents that the stoppage of two increments are without any cumulative effect and there shall be no recovery of any amount from the petitioner on the basis of this enquriy as it is not an enquiry at all and he is entitled to be considered for promotion as per rules. No costs.

rj

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Senior Regional Manager
   Tamil Nadu Civil Supplies Corporation
   Nagapattinam.

2. The Managing Director
   Tamil Nadu Civil Supplies Corporation
   42, Thambus amy Road
   Chennai - 10.

+ one cc to Mr. M. Devadoss, Advocate sr no. 61260
+ one cc to Mr. S. Venkataraman, Advocate sr no. 60540

LA(cO)
NM(21.12.2006)

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